

Honorable Richard Rico
Department 17

Monday— October 23, 2017
Calendar No. 11

PROCEEDINGS FILED

Superior Court of California
County of Los Angeles

Glazer v. Shapiro et al
BC669741

OCT 23 2017

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ORIGINAL FILED**
Superior Court of California
County of Los Angeles

Motion to Strike Punitive Damages

By *Anthony Ortiz* Deputy Sherri R. Carter, Executive Officer/Clerk

OCT 23 2017

~~TENTATIVE RULING~~

Sherri R. Carter, Executive Officer/Clerk
By Anthony Ortiz, Deputy

Plaintiff David Glazer initiated this action against Defendants Cheney Adrienne Shapiro; Cheney Shapiro Designs 401K; Cheney Shapiro Designs; Resourceful Developments, Inc.; Richard Judson Williams; Silverwood Properties, Inc.; Kenneth Howard Shapiro; Podley Associates Realtors; Linda Darlington Seyfert; Seismic Safety, Inc.; Edmund Sylvis; and Ken Lamarr Compton. The action concerns the sale of a residential property at 6257 Pine Crest Drive, LA, CA. The complaint asserts 15 causes of action, including negligence, breach of contract, and fraud.

Silverwood Properties, Inc. ("Starwood") and Kenneth Howard Shapiro brings the instant motion to strike allegations concerning punitive damages. (Complaint ¶¶ 61, 72; Prayer ¶ 9.) The motion is GRANTED.

Civil Code §3294 authorizes the recovery of punitive damages in noncontract cases where the defendant has been guilty of oppression, fraud, or malice, express or implied. "Oppression" means despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that person's rights. (Civil Code § 3294(c)(2).) "Malice" means conduct which is intended by the defendant to cause injury to the plaintiff or despicable conduct which is carried on by the defendant with a willful and conscious disregard for the rights or safety of others. (Civil Code § 3294(c)(1).) Fraud means an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury. (Civil Code § 3294(c)(3).)

The complaint alleges that Defendants Mr. Shapiro is a licensed real estate broker/agent and is employed by Silverwood. (Complaint ¶¶ 10-11.) Mr. Shapiro observed adverse conditions in the home and failed to honestly disclose such conditions to Plaintiff. (Id. ¶ 99.) The allegations are vague and general. Claims that Defendants acted intentionally and fraudulently are conclusory.

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